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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,762	08/27/2001	Mark E. Pecen	CS99025RL	5766

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MOTOROLA INC  
600 NORTH US HIGHWAY 45  
LIBERTYVILLE, IL 60048-5343

[REDACTED] EXAMINER

NGUYEN, THUAN T

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 09/940,762	Applicant(s) Pecen et al.
Examiner Thuan Nguyen	Art Unit 2685



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-23 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-23 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on Aug 27, 2001 is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      6)  Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

2. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Joao et al. (U.S. Patent No. 5,878,337/ or “Joao” hereinafter).

Regarding claims 1-8, Joao discloses a real-time and interactive wireless communication system that a user at the terminal point, or at the communication application of a mobile wireless communication device, for example, whether a cellular phone or a personal computer or a pager (Figs. 1, 3, 7, 9, 10 & 11) can request for transactions (purchases, banking, call connection and etc.) and selects the applications based on the costs provided by the vendors/sellers at point-of-sale terminal (Fig. 1) or at a transaction terminal 302 (Fig. 10). Joao further discloses the step of requesting, selecting, rejecting or accepting the (offer) cost of transactions before hand and the cost of components, an amount of information of the transaction, and subscription information associated with the application (col. 18/lines 45-56 for the cost of transaction and the cost of components or broken down components as the amount of transaction further includes supplement information such as the costs of goods and services as well as the time and location

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for each transaction including components and limits for each transaction with user's information, see col. 16/lines 13-35), and then receiving the costs and the user charges his/her credits based on at least partly on the credit to the user of the communication application including a cost offer based partly on the credit to a user of the communication application for conducting the transaction with restrictions and limitations (col. 16/lines 13-35), through a authorization process whether to authorize or unauthorized the transactions (Figs. 9 & 9 (cont.)). The entire process is conducted within a wireless communication network (see col. 3/line 60 to col. 4/line 56; col. 5/lines 3-39; col. 7/line 30 to col. 8/line 22 for transaction information including authorization, spending limits, types of transactions or a cost offer, types of goods and services or in other words, the quality of communications service, daily spending limits, and other limitations; col. 8/line 60 to col. 9/line 53 for security issues; and col. 11/lines 25-59 for Internet accesses as well as transactions in real-time). Joao further includes a server computer to handle the transactions between vendors and users interactively (Fig. 10/item 350; and col. 35/lines 19-59).

As for claims 8-23, these claims with same limitations are rejected for the reasons given in the scope of claims 1-8 as already disclosed above (see Joao reference for further details & embodiments not limited to any type of any communication systems (col. 4/lines 32-41) and to any type of receiving either stationary or wireless/mobile apparatus (col. 5/lines 3-19) as well as offer the reliability of the wireless transaction cost to the wireless communication device by providing security measures per claim 23 (col. 11/line 65 to col. 12/line 15).

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*Response to Arguments*

3. Applicant's arguments filed on 03/26/03 have been fully considered but they are not persuasive. Applicants basically argues that Joao's system does not provide the cost to conduct the transaction, receiving a cost offer including at least a communication service cost component, a cost offer based on a quality of communication service, as well as an amount of information of transaction, and subscription associated with the communication application, a cost offer based partly on the credit to a user of the communication application for conducting the transaction, and the transaction performance in an interactive means. Each issue has already been addressed and met in this Office Action. Therefore, the Examiner disagrees with the Applicants' arguments and stands with the disclosure of Joao as disclosed in this Final Office Action.

*Conclusion*

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated

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from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**5. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314, (for Technology Center 2600 only)**

*Hand-delivered responses should be brought to Crystal Park II,  
2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (703) 308-5860. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

Tony T. Nguyen  
Art Unit 2685  
May 30, 2003

  
EDWARD F. URBAN  
ADVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600